

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SCOTT D. FOSTER,	§	
	§	No. 130, 2018
Defendant Below,	§	
Appellant,	§	Court Below: Superior Court of the
	§	State of Delaware
v.	§	
	§	Cr. ID No. 0808005422 (K)
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: March 28, 2018

Decided: May 29, 2018

Before **STRINE**, Chief Justice; **VALIHURA** and **VAUGHN**, Justices.

O R D E R

(1) Scott D. Foster filed this appeal from the Superior Court’s order of February 28, 2018 denying his motion for correction of a clerical mistake in his sentence. The State of Delaware has filed a motion to affirm the Superior Court’s judgment on the ground that it is manifest on the face of Foster’s opening brief that the appeal is without merit. We agree and affirm.

(2) In 2009, Foster was sentenced, in relevant part, to a ten-year minimum-mandatory term of incarceration for rape in the second degree. On appeal, Foster contends that the minimum-mandatory incarcerative term for rape second degree is two years, not ten years. He is mistaken. Under 11 *Del. C.* § 772(c), “the minimum

sentence for a person convicted of rape in the second degree in violation of this section shall be 10 years at Level V.”

NOW, THEREFORE, IT IS ORDERED that the State’s motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Karen L. Valihura
Justice